



DT12 Rec'd PCT/PTO 30 MAR 2004 *PCT*

Docket No.: 50341-041

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	Customer Number: 20277
Joanne Elizabeth BURN, et al.	:	Confirmation Number: Unknown
Serial No.: 09/857,346	:	Group Art Unit: not yet assigned
Filed: June 04, 2001	:	Examiner: not yet assigned
For: CONTROL OF FLOWERING	:	

RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION

Mail Stop Unknown
Commissioner for Patents
BOX PCT – Examiners Bryan Tung and George M. Dombroske-PCT LEGAL OFFICE
Alexandria, VA 22313-1450

Sir:

This is in response to the Decision mailed March 17, 2004 concerning the Request for Reconsideration filed October 1, 2003. The Decision states that the Patent Office Records contain only two Declarations executed by Inventors Burn; Peacock; Dennis; Sheldon; Helliwell and Rouse and that the burden of proof of filing the third Declaration executed by Perez lies with the undersigned.

We affirm that the stamped date receipt card evidencing the filing of the Response to Missing Requirements indicates that the Declaration/ Power of Attorney was attached. It did not specify three (3) Declarations since the undersigned considered the filing of the Declarations containing all the inventors signatures to be in full compliance with the requirement for filing a Declaration/Power of Attorney.

Since the Office is requiring additional support for the filing of the Declaration executed by Inventor Perez, it is respectfully pointed out that a three month extension of time was

necessary to allow time for receipt of the Perez Declaration. In that regard, we provide copies of letters between Counsel, the client and Mr. Perez. You will note that on July 22, 2002 Counsel received *via* facsimile from the client the executed Declarations/Power of Attorney for all the inventors except Mr. Perez, (the receipt of these documents on July 22, 2002 was within the second month extended period for response; copy enclosed). However, the documents were not filed at that time, but held until August 22, 2002 to provide Mr. Perez the opportunity to provide his declaration. It had been decided by the client that in the event that Mr. Perez did not provide a declaration a Petition Under 37 C.F.R. § 1.47(a) would be filed. However, Counsel received *via* facsimile a letter dated August 21, 2002 from Mr. Perez forwarding his Declaration (the receipt of this document on August 21, 2002 is indicated on the enclosed document and was within the third month extended period for response). A complete Response with a three month extension of time was filed on August 22, 2002, one day after the facsimile receipt of the Perez Declaration and within the three month extended deadline.

The undersigned attorney's file contains a copy of all three Declarations with the Response to the Missing Parts and other documents that were filed therewith. There is no reason to believe that the Perez Declaration was not filed with the original Response to the Missing Requirements as every effort was made to obtain the signature of Mr. Perez prior to filing a complete Response to the Notice to File Missing Requirements. It can only be presumed that the Declaration was misplaced after the deposit of the Response at the U.S. Patent and Trademark Office.

In further support that the Declaration of Pascual Perez was filed on August 22, 2002, attached herewith are (1) my Declaration under 37 CFR 1.132 as the attorney who reviewed and executed the Response to Missing Requirements filed on August 22, 2002; reviewed and

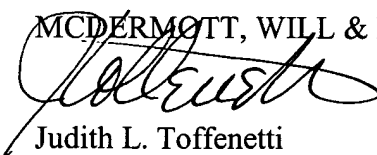
executed the Response to Notification of Defective Response filed March 6, 2003 and reviewed and executed the Request for Reconsideration filed October 1, 2003; (2) Lorna Mullenax's Declaration under 37 CFR 1.132, the Intellectual Property Paralegal Coordinator who receives and docket all mail pertaining to new applications, including but not limited to U.S. Patent Office Communications, as well as Client's communications relating thereto; and (3) Katherine Bell's Declaration under 37 CFR 1.132, the Intellectual Property Coordinator who reviewed the Decision of September 5, 2003 and prepared the Request for Reconsideration filed October 1, 2003.

Therefore, reconsideration of this Decision is requested. It is respectfully requested that the Declaration signed by Pascual Perez be accorded the actual filing date of August 22, 2002.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT, WILL & EMERY



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Facsimile Transmission

ORIGINAL COPY

TO: McDermott Will & Emery
ATTENTION: Ms Judith L. Toffenetti
FAX No.: 0015 1 202 756 8087
DATE: 22 July 2002
SENDER: Dr Vivien Santer
SUBJECT: United States Of America Patent Application No. 09/857346
YOUR REF: 50341-041
OUR REF: VS:CE:FP14526
PAGES: 13 (including this page)

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AUG 21 2002

McDERMOTT, WILL & EMERY

ORIGINAL

TELECOPIE

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Compagnie : BIOGEMMA
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Télécopie : 04.73.42.79.81

Date: 21/08/02

Nombre de Pages, y compris cette page: 4

BEST AVAILABLE COPY

Re : US Patent application N° 09/857346

Dear Miss Toffenetti,

You will find enclosed a copy of Declaration and Power of Attorney signed by myself as agreed with M. Rob Defeyter from CSIRO Plant Industry.

I am mailing to you the original document by rapid mail (D.H.L.) August 22nd.

Sincerely yours

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Attention: Ms Judith L. Toffenetti

BY FACSIMILE
0015 1 202 756 8087
CONFIRMATION BY COURIER

22 July 2002

Dear Ms Toffenetti

United States Of America Patent Application No. 09/857346
in the name of COMMONWEALTH SCIENTIFIC AND INDUSTRIAL RESEARCH
ORGANISATION and PASCUAL PEREZ
Entitled CONTROL OF FLOWERING
Your Ref: 50341-041
Our Ref: VS:CE:FP14526

Further to your telefax dated 27 June 2002, please find enclosed the combined declaration and power of attorney form duly executed by all of the inventors except Dr Perez, as well as an executed assignment document for filing in response to the Notification of Missing Parts. Please note that one of the inventors, Dean Thomas Roise, has signed the forms separately, and these forms are also enclosed. The original signed documents are being forwarded by courier with confirmation of this telefax.

GRIFFITH HACK

PATENT AND TRADE MARK ATTORNEYS

McDermott Will & Emery22 July 2002

Kindly acknowledge receipt of these instructions.

Yours sincerely
GRIFFITH HACK



Dr Vivien Santer
Principal
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